

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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JAMES MITCHELL,

Petitioner,

– against –

UNITED STATES OF AMERICA,

Respondent.  
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01 Civ. 0796 (TPG)

**ORDER**

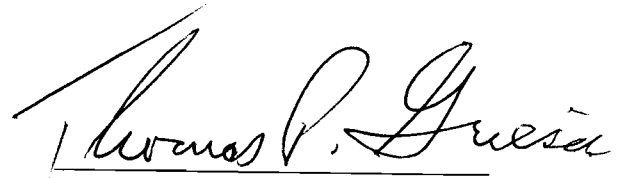
On May 13, 2009, the court denied petitioner's motion under Federal Rule of Civil Procedure 60(b)(6) for relief from the court's prior denial of petitioner's 28 U.S.C. § 2255 petition. Petitioner has now filed a motion styled as a "Motion to Alter or Amend Order" objecting to the May 13 order.

Petitioner has pointed to no controlling or material facts or law that the court overlooked in its earlier decisions. Petitioner's motion is therefore denied.

Since petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253. With respect to the in forma pauperis statute, the court certifies that an appeal would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated: New York, New York  
August 4, 2009

A handwritten signature in black ink, reading "Thomas P. Griesa". The signature is written in a cursive style with a large, sweeping initial 'T'.

Thomas P. Griesa  
U.S.D.J.